

## **REMARKS**

The Applicant and Applicant's attorney wish to thank the Examiner for the time spent reviewing the application and preparing the Office Action. The Office Action, mailed July 1, 2008, considered and rejected claims 1-14 in light of *Greenberg* (U.S. Patent No. 5,655,997), *Voris* (U.S. Patent No. 4,765,613), *Brewer* (U.S. Patent No. 5,645,509), and *Rawls* (U.S. Patent No. 5,547,439).<sup>1</sup> By this paper, claims 1, 7, and 10 have been amended. Accordingly, following this paper, claims 1-14 are pending, of which claims 1 and 10 are the only independent claims at issue.

### **Rejections Under 35 U.S.C. § 103**

In the Office Action, claims 1-9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Greenberg* in view of *Voris*. Applicant submits that claims 1-9 are not obvious in light of *Voris*.

*Greenberg* discloses an apparatus for providing feedback to a user of a weight stack machine. In particular, *Greenberg* discloses an "exercise station 100" including a "weight stack machine," "weights 114 and 116," "cable 106," and "encoder 104" (Col. 3, lines 10-25). "Encoder 104 converts the linear motion of cable 106 into electrical pulses" which are sent to "assembly 124" (Col. 3, lines 37-39). "Assembly 124 computes the speed and distance traveled by cable 106 ... and the number or height of weights moved as detected by a plurality of sensors" (Col. 4, lines 57-60). "Assembly 124 is made up of two parts," namely a "Sensing Processing Unit (SPU) 148" and a "controller 150" (Col. 5, lines 7-8, 18). A "function of controller 150 is to display on display 126 information related to feedback for the user as the exercise session is progressing (Col. 5, lines 24-27). In other words, assembly 124 monitors the use of the weight stack machine, computes various parameters of the exercise regime, and displays those parameters on a display to be seen by the user.

*Voris* discloses a progressive resistance exercise device. More specifically, *Voris* discloses a "bench press machine 10" that includes a "bench press bar 24 [that] is pivotally mounted on the frame 12." Col. 4, ll. 3, 21-22. The device also includes a "resistance applying

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<sup>1</sup> Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

mechanism" 34 that is "coupled to the bar 24" to "provide resistance to the movement of the bar 24." Col. 4, ll. 30-33. The resistance mechanism 34 "includes a brake 36...that is linked to the bar 24 by chain 40." The "resistance mechanism 34 further include a microprocessor and display unit 52" to "control the amount of resistance being exerted by the brake 36, in response to information provided by the position encoder 54 concerning the relative position of the bar 24. Col. 5, ll. 48-56. The "programming of the unit 52 incrementally controls the resistance ... in accordance with a predetermined resistance gradient." Col. 6, ll. 3-6.

In contrast, amended claim 1 recites an "exercise system comprising: a local system including an exercise apparatus having an actuator and an associated local computer, said local computer being able to sense a performance of a user of said exercise apparatus and control said actuator to adjust at least one operating parameter of said exercise device based on said sensed performance and a modifiable script stored on said local computer; a remote system including at least one remote computer, and an Internet connection that at least part-time couples said local system to said remote system for data communication between said local system and said remote system, such that said local computer is interposed between said remote computer and said actuator, whereby said remote system cannot directly control said actuator to adjust said at least one operating parameter of said exercise apparatus."

As indicated, the exercise system of claim 1 includes an exercise apparatus having an actuator and a local computer. The local computer is able to control the actuator to adjust an operating parameter of the exercise apparatus based on both a sensed performance and a locally stored modifiable script. Additionally, the exercise system of claim one includes a remote system at least part-time coupled to the local system via an Internet connection. Notably, the local computer of claim 1 is interposed between the remote computer and the actuator so that the remote computer cannot directly control the actuator to adjust the operating parameters of the exercise apparatus.

Neither *Greenberg* nor *Voris*, either alone or in combination, disclose the elements of claim 1. *Greenberg*, for example, does not discuss or suggest the inclusion of an "actuator being able to adjust at least one operating parameter of said exercise device." Rather than controlling the operating parameters of the device, *Greenberg's* exercise system senses and computes various parameters of the exercise machine, such as the number and height of weights lifted, and provides this information on a display to a user. Additionally, *Greenberg* also does not teach or

suggest a "modifiable script stored on said local computer," as recited in claim 1. Still further, *Greenberg* also does not teach or suggest a "local computer is interposed between said remote computer and said actuator, whereby said remote system cannot directly control said actuator to adjust said at least one operating parameter of said exercise apparatus." Because, as noted, *Greenberg* does not disclose an actuator for adjusting operating parameters, *Greenberg* cannot disclose a local computer interposed between an actuator and a remote system.

*Voris* similarly fails to disclose various elements of claim 1. For example, *Voris* fails to disclose a modifiable script, or a sequence of exercise or other health-related events that are performed in fixed or variable sequences, stored on a local computer, as recited in claim 1. Rather, *Voris* merely discloses adjusting the resistance of the device to conform to a "predetermined resistance gradient" based on the position and movement of the bar 24 at any given time. Additionally, *Voris* also fails to disclose the "remote system," the "Internet connection," and the configuration of the "local computer [being] interposed between said remote computer and said actuator," as recited in claim 1. For at least these reasons, *Greenberg* and *Voris* fail to disclose or obviate claim 1. Applicant, therefore, respectfully requests withdrawal of the rejection of claim 1 under 35 U.S.C. § 103(a).

Claims 2-9 depend from claim 1, and thus incorporate the elements recited therein. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 103(a) of claims 2-9 be reconsidered and withdrawn.

In the Office Action, claims 10-14 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Brewer* in view of *Rawls*. Applicant submits that claims 10-14 are not obvious in light of *Brewer* in view of *Rawls*.

Claim 10 is directed towards a local system used for exercise. As amended herein, claim 10 recites, among other things, "a plurality of exercise apparatuses each having a moveable element for performing an exercise, wherein said plurality of exercise apparatuses comprises distinct types of exercise apparatuses; and a local computer associated with one of said plurality of exercise apparatuses, said local computer being adapted to engage in bi-directional communication with other exercise apparatuses of said plurality of exercise apparatuses for controlling an operation of at least two of said plurality of exercise apparatuses based upon a modifiable script provided by said local computer."

As indicated, the local system of claim 10 includes a plurality of exercise apparatuses that includes at least two different types of exercise apparatuses. Additionally, one of the exercise apparatuses includes a local computer that is able to engage in bi-directional communication with the other exercise apparatuses of the local system. Through this communication, the local computer is able to control an operation of at least two of the exercise devices.

Neither *Brewer* nor *Rawls*, either alone or in combination, disclose the elements of claim 10. For example, neither *Brewer* nor *Rawls* discloses a local computer associated with one of the exercise apparatus and which can engage in bi-directional communication with the other exercise apparatuses in order to control the operation of at least two of the exercise apparatuses. For at least this reason, *Brewer* and *Rawls* fail to disclose or obviate claim 10. Applicant, therefore, respectfully requests withdrawal of the rejection under 35 U.S.C. § 103(a) of independent claim 10 and corresponding dependent claims 11-14.

### **CONCLUSION**

By this paper pending claims 1, 7, and 10 have been amended. Claims 1-14 are pending and should be in condition for allowance. Reconsideration and allowance of the above-identified claims are now respectfully requested.

In the event that the Examiner finds any remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 19<sup>th</sup> day of September 2008.

Respectfully submitted,

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